

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-373-C - ORDER NO. 98-862  
NOVEMBER 4, 1998

IN RE: Application of Max-Tel Communications, ) ORDER APPROVING  
Inc. for a Certificate of Public Convenience ) CERTIFICATE TO  
and Necessity to Provide Local ) PROVIDE LOCAL  
Telecommunications Services within the State ) EXCHANGE SERVICES  
of South Carolina. )

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of Max-Tel Communications, Inc. ("Max-Tel" or "the Company") for a Certificate of Public Convenience and Necessity to permit it to provide resold local exchange telecommunications services to customers located in South Carolina. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed Max-Tel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Max-Tel complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Prior to the hearing, counsel for SCTC filed a Stipulation in which Max-Tel stipulated that it would only seek authority in non-rural local exchange ("LEC") service

areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Max-Tel provided written notice of its intent prior to the date of the intended service. Max-Tel also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Max-Tel agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to Max-Tel's Application provided the conditions contained in the Stipulation are met. At the hearing on Max-Tel's Application, the Stipulation was offered into evidence. The Stipulation is approved and attached hereto as Exhibit 1.

A hearing was commenced on October 7, 1998, at 12:00 noon, in the Commission's Hearing Room. The Honorable William Saunders, Vice-Chairman, presided. Max-Tel was not represented by counsel. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Mark Maxey, President of Max-Tel, appeared and offered testimony in support of Max-Tel's application. The purpose of Maxey's testimony was to support Max-Tel's Application for a Certificate of Public Convenience and Necessity to provide competing local exchange services in South Carolina.

DISCUSSION

S.C. Code Ann. § 58-9-280 (Supp. 1997) provides that the Commission may grant a certificate to operate as a telephone utility...to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, Max-Tel's application, and evidence submitted by Max-Tel, the Commission finds and concludes that the Certificate sought by Max-Tel should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. § 58-9-280 (Supp. 1997) and the evidence submitted in support of the motion which relates to that criteria:

1. The Commission finds that Max-Tel possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. § 58-9-280(B)(1) (Supp. 1997). Mr. Maxey stated that Max-Tel possesses the financial stability to service the South Carolina market. Mr. Maxey stated that in the past eighteen months, Max-Tel has expanded into nine states without incurring significant expenses and he does not believe that expansion into South Carolina will cause significant expenses. Mr. Maxey stated that Max-Tel's management team consists of a group of individuals who have significant business experience and telecommunications experience. Additionally, Max-Tel uses outside consultants on an as needed basis.

The record reveals that Max-Tel is incorporated in the State of Texas. In addition to describing the services which Max-Tel proposes to offer, Mr. Maxey explained Max-Tel's billing procedures and Max-Tel's customer service arrangements.

Based on the undisputed testimony of witness Maxey, the Commission finds that

Max-Tel possess the technical, financial, and managerial resources sufficient to provide the services requested.

2. The Commission finds that Max-Tel will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B) (Supp. 1997). Mr. Maxey indicated that Max-Tel would offer services which comply with the Commission's service standards and also stated that Max-Tel will comply with all applicable rules, policies and statutes applicable to the offering of those services. Based on the undisputed testimony Mr. Maxey, the Commission believes, and so finds, that Max-Tel will provide telecommunications services that will meet the service standards of the Commission.

3. The Commission finds that Max-Tel's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1997). Mr. Maxey's testimony reveals that Max-Tel believes that approval of its Application will facilitate competition in the local exchange market whereby the customer will ultimately benefit with higher quality and lower cost service. No evidence was introduced contradicting the testimony of Mr. Maxey. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by Max-Tel will not adversely impact affordable local exchange service.

4. The Commission finds that Max-Tel will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4) (Supp. 1997). Mr. Maxey stated that Max-Tel would comply with the Commission's universal service requirements and would participate in the support of universally available telephone service

at affordable rates to the extent it may be required to do so by the Commission.

Additionally, in the Stipulation which Max-Tel voluntarily entered with the SCTC, Max-Tel agreed to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. Based on the undisputed evidence of record, the Commission finds that Max-Tel will participate in support of universally available telephone service at affordable rates.

5. The Commission finds that the provision of local exchange service by Max-Tel "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5) Supp. 1997). Mr. Maxey stated that approval of Max-Tel's Application would not adversely affect the public interest. Mr. Maxey testified that approval of Max-Tel's Application would offer the South Carolina market an alternate source for local exchange service and create an atmosphere of competition in the local exchange market where the end-user would benefit with higher quality, lower cost service. No evidence contradicting Mr. Maxey was introduced. Therefore, based on the undisputed evidence of record, the Commission finds that approval of Max-Tel's Application to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5) (Supp. 1997).

Therefore, based on the findings above, the Commission finds and concludes that a Certificate of Public Convenience and Necessity should be granted to Max-Tel to permit it to provide local exchange telecommunications services to customers in South Carolina.

IT IS THEREFORE ORDERED THAT:

1. The Application of Max-Tel for a Certificate of Public Convenience and Necessity to permit it to provide local exchange telecommunications services to customers in the State of South Carolina is approved. Max-Tel is hereby authorized to provide competitive local exchange services in the areas in South Carolina subject to the terms of the Stipulation between Max-Tel and the SCTC. The stipulation is approved by this Commission and is attached to this Order as Exhibit 1.

2. Max-Tel shall file, prior to offering local exchange service in South Carolina, a final tariff of its service offerings conforming to all matters discussed with the Staff and comporting with South Carolina law in all matters.

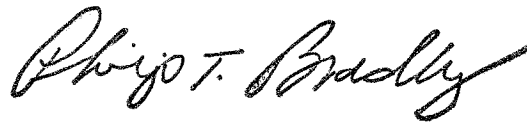
3. Max-Tel shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relation (complaint) matters, engineering operations, and tests and repairs. In addition, Max-Tel shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Max-Tel shall file with the Commission the names, addresses, and telephone numbers of those representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, Max-Tel shall promptly notify the Commission in writing if the representatives are replaced.

4. Max-Tel is directed to comply with all Commission regulations, unless a regulation is expressly waived by the Commission.

5. Max-Tel shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. This Order shall remain in full force and effect until further Order of the Commission.

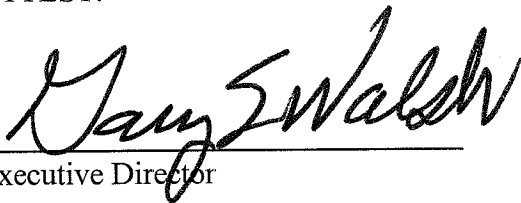
BY ORDER OF THE COMMISSION:



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Chairman

ATTEST:



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Executive Director

(SEAL)

DOCKET NOS. 98-373-C - ORDER NO. 98-862  
NOVEMBER 4, 1998  
ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY  
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL  
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission  
the name, title, address, and telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

\_\_\_\_\_  
Company Name/DBA Name

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Authorized Utility Representative (Please Print or Type)

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
This form was completed by      Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230



PAID  
ME 8-31/98

ACCEPTED  
Legal *hm* 8/31/98

S. C. PUBLIC SERVICE COMMISSION  
RECEIVED  
AUG 28 1998  
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 98-373-C

S. C. PUBLIC SERVICE COMMISSION  
RECEIVED  
AUG 28 1998  
RECEIVED

Re: Application of Max-Tel Communications, Inc. )  
for a Certificate of Public Convenience and Necessity )  
to Provide Resold Local Exchange Telecommunications )  
Services in South Carolina )

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Max-Tel Communications ("Max-Tel") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to Max-Tel's Application. SCTC and Max-Tel stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Max-Tel, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Max-Tel stipulates and agrees that any Certificate which may be granted will authorize Max-Tel to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Max-Tel stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Max-Tel stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Max-Tel provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Max-Tel acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Max-Tel stipulates and agrees that if, after Max-Tel gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Max-Tel will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Max-Tel acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained

herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Max-Tel agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Max-Tel hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 20 day of AUG, 1998.

Max-Tel Communications, Inc.

Craig B. B. B.

South Carolina Telephone Coalition:

Margaret M. Fox

M. John Bowen, Jr.

Margaret M. Fox

McNair Law Firm, P.A.

Post Office Box 11390

Columbia, South Carolina 29201

(803) 799-9800

Attorneys for the South Carolina  
Telephone Coalition

ATTACHMENT A  
South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Bluffton Telephone Company, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Hargray Telephone Company, Inc.  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Horry Telephone Cooperative, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company